

#### **DETAILED ACTION**

Claims 1, 4-8, 13-21, and 24-28 are pending. Claims 6-8, 19, and 20 are withdrawn. Claims 2, 3, 9-12, 16, 22, 23, and 29 are cancelled.

The previously asserted prior art rejections are withdrawn in light of applicant's persuasive arguments.

#### **EXAMINER'S AMENDMENT**

Claims 6-18, 19, and 20 are cancelled as being drawn to a non-elected invention that was withdrawn without traverse in reply filed 01-15-2009.

#### ***Allowable Subject Matter***

Claims 1, 4, 5, 13-15, 16, 18, 21, and 24-28 are allowed. The following is an examiner's statement of reasons for allowance:

Independent claims 1 and 24 disclose a positive active material comprising an oxide of Gd, Ce, or Yb formed on the surface of the base positive active material but not incorporated therein. The independent claims further disclose that the oxides of Gd, Ce, or Yb are present at a concentration of 0.01% to 4.00% by wt. The closest prior art of record Chen et al. (CN 1416189) disclose a positive electrode for a lithium secondary battery that is covered in a composite material (formed on the surface and not incorporated in the base particles) that may comprise an oxide of Yb, Gd, Ce, or (claims 1 and 4, abstract). Such a coating would come into contact with the electrolyte of the battery. Chen et al. does not disclose that the concentration is between 0.01%

and 4.00% by wt. Furthermore applicant has shown unexpected results relating to the concentration of the oxide of Gd, Ce, or Yb that is shown in the specification on table 5.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACOB MARKS whose telephone number is (571)270-7873. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ula Ruddock can be reached on 571-272-1481. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jacob Marks/

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